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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,486	04/28/2005	Annette Torkildsen	BRYN/0007	4050

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William B. Patterson  
Moser Patterson & Sheridan  
3040 Post Oak Boulevard  
Suite 1500  
Houston, TX 77056

EXAMINER

CHAPMAN, GINGER T

ART UNIT PAPER NUMBER

3761

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

**Office Action Summary**

Application No.

10/533,486

Applicant(s)

TORKILDSEN ET AL.

Examiner

Ginger T. Chapman

Art Unit

3761

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/28/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, and 3-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Fuller (EP 0 213 241 A2).

Claim 1. As seen in Figures 1, 9-11 and 18, Fuller discloses a tampon and finger protecting packaging (30) preventing contact between the fingers and menstrual fluids (figs. 9 and 10), the packaging comprising at least one sealed bag (32) that keeps the tampon sterile before use (col. 6, ll. 52-55 to col. 7, ll. 1-6), the packaging further being adapted to cover at least one finger (figs. 9 and 10), preventing the at least one finger from coming into contact with the tampon and thereby contaminating the tampon while inserting the tampon (figs. 9 and 10), or preventing the at least one finger from coming into contact with menstrual fluids that may contaminate the at least one finger (figs. 9 and 10), characterized in that the packaging comprises at least one bag (30) of a plastic material (col. 5, l. 43) that does not damage while opening and after opening is adapted for use as a finger glove by turning the bag inside out over the at least one finger (figs. 9 and 10).

Claim 3. As seen in Figure 4, Fuller discloses the bag (30) comprises tabs (50), the tabs (50) facilitating use of the packaging as finger protection (col. 6, ll. 17-20).

Claim 4. As seen in Figures 7 and 13, Fuller discloses the seal (fig. 7: (52) and fig. 13 (64) of the packaging (30) is formed by use of adherents (col. 6, l. 36; col. 8, l. 25).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller in view of Elmore (US 3,035,578).

Claim 2. Fuller discloses the tampon and finger protecting packaging but does not disclose two bags. Elmore teaches two bags. Elmore, at column 1, line 1 teaches the ability of

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the bag to protectively enclose the sanitary product thus disclosing the desire and motivation to protectively enclose the sanitary product. As seen in Figure 6-10, Elmore teaches the protective packaging comprising two bags (D and E), one bag (D) covering the other bag (E) while packed (col. 2, ll. 51-52 and ll. 60-61). Elmore states that the advantage of making a packaging system with this design is that bag E conveniently fits within bag D (col. 2, ll. 51-52) and after the sanitary article is used bag E is removed from bag D, bag E is unfolded and the soiled article is deposited in bag E and enclosed within bag E for disposal (col. 2, ll. 60-65). In view of the teachings of Elmore, it would be obvious to one having ordinary skill in the art at the time the invention was made to form the packaging comprising two bags, one bag covering the other bag while packed, since Elmore states at column 2, lines 23-24 that the used article enclosed in the bag may be conveniently disposed while in the sanitary bag.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ginger Chapman  
Examiner, Art Unit 3761  
10/28/05

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TATYANA ZALUKA  
SUPERVISORY PRIMARY EXAMINER

